

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

DEANDRE JOHNSON, #20182885,

Petitioner,

v.

CIVIL ACTION NO. 2:20CV474

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

Respondent.

FINAL ORDER

Before the Court is a Petition for a Writ of *Habeas Corpus* filed pursuant to 28 U.S.C. § 2254, ECF Nos. 1, 15, and the Respondent's Motion to Dismiss, ECF No. 26. In his Petitions, the *pro se* Petitioner alleges violation of federal rights pertaining to his convictions in the Circuit Court of Spotsylvania County for Strangulation, Rape, Assault and Battery-Family Member and Unlawful Entry ("First Convictions") and five counts of Protective Order Violations ("Second Convictions"). As a result of the convictions, Petitioner was sentenced to serve 14 years in prison on the First Conviction and 12 months with 10 months suspended on each count in the Second Conviction.

The Petitions were referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed June 14, 2022, recommends dismissal of the Petitions with prejudice, ECF No. 46. On July 21, 2022, Petitioner untimely filed objections to the Report and Recommendation. Respondent has not responded to Petitioner's objections and the time to do so has expired.

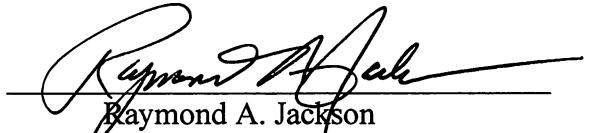
The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed June 14, 2022. It is, therefore, **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 26, be **GRANTED**, and that the Petitions, ECF Nos. 1 and 15, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the Respondent.

Finding that the procedural basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so **within thirty (30) days** from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall forward a copy of this Order to Petitioner and to counsel of record for the Respondent.

It is so **ORDERED**.



Raymond A. Jackson
United States District Judge

Norfolk, Virginia
August 17, 2022